

MELINDA HAAG (CABN 132612)
United States Attorney

MIRANDA KANE (CABN 150630)
Chief, Criminal Division

KYLE F. WALDINGER (ILBN 6238304)
Assistant United States Attorney

450 Golden Gate Avenue, 11th Floor
San Francisco, California 94102
Telephone: (415) 436-6830
Facsimile: (415) 436-7234
E-mail: kyle.waldinger@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-0237 EMC
)	
Plaintiff,)	
)	STIPULATION AND [PROPOSED] ORDER
v.)	RE-SETTING STATUS HEARING DATE
)	
DAVID NOSAL,)	
)	
Defendant.)	

The United States and the defendant David Nosal submit this stipulation and proposed order to continue the July 18, 2012, status hearing to August 15, 2012. The parties stipulate, and jointly inform the Court, as follows:

1. On or about February 2, 2010, the United States filed its Notice of Appeal in this matter, seeking reversal of the District Court's dismissal of several counts of the Superseding Indictment. At that time, the District Court vacated the trial schedule.

2. Oral argument before a panel of the Ninth Circuit Court of Appeals regarding the United States' appeal was held on February 14, 2011. On April 28, 2011, the Court of Appeals issued an opinion reversing the District Court's dismissal order.

3. On June 13, 2011, the defendant David Nosal filed his petition for rehearing en banc in the Court of Appeals. The United States filed its response to that petition on July 20,

STIP. & [PROPOSED] ORDER RE-SETTING STATUS HEARING DATE
CR 08-0237 EMC

2011. On October 27, 2011, the Court of Appeals ordered that the case be reheard en banc. The en banc oral argument occurred on December 15, 2011. On April 10, 2012, the en banc panel issued its opinion affirming the district court's dismissal order.

4. On April 16, 2012, the United States moved in the Court of Appeals to stay the mandate on the basis that the Solicitor General, in consultation with the Criminal Division of the Department of Justice and the United States Attorney's Office, is currently considering whether to file a petition for certiorari. A petition would be due on July 9, 2012. On April 18, 2012, the Court of Appeals granted the United States' motion to stay the mandate.

5. On July 2, 2012, the United States moved in the Court of Appeals to stay the mandate again on the basis that the Solicitor General had filed an application with the Supreme Court for a 30-day extension of time, to an including August 8, 2012, within which to file petition for a writ of certiorari. On July 3, 2012, the Court of Appeals granted the United States' motion to stay the mandate.

6. For these reasons, the parties jointly request that the Court **VACATE** the July 18, 2012, status hearing, and re-set that hearing for August 15, 2012. If proceedings terminate in the Court of Appeals before that date, the parties will contact this Court's deputy clerk to schedule an appearance in the District Court forthwith. If the Solicitor General files a petition for certiorari, the parties will also inform the Court of that fact and seek to have the status hearing vacated.

SO STIPULATED.

DATED: July 13, 2012

MELINDA HAAG
United States Attorney

/s/

KYLE F. WALDINGER
Assistant United States Attorney

DATED: July 13, 2012

/s/

STEVEN F. GRUEL
Attorney for the defendant David Nosal

~~[PROPOSED]~~ ORDER

For the reasons stated above, the parties' joint request that the July 18, 2012 status hearing be vacated is GRANTED. The parties are ORDERED to appear before the Court for a status hearing on August ²²~~15~~, 2012, at 2:30 p.m. If proceedings in the Court of Appeals terminate before that date, the parties are ordered to contact this Court's deputy clerk to schedule an appearance in the District Court forthwith.

DATED: July 17, 2012

